



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Number : 10/828,480 Confirmation No.: 7194  
Applicant : John Lair *et al.*  
Filed : April 21, 2004  
Title : Wireless Headset For Communications Device  
TC/Art Unit : 2681  
Examiner: : Wayne Huu Cai  
  
Docket No. : 64337.000002  
Customer No. : 21967

**DECLARATION UNDER 37 C.F.R. § 1.132 OF D. SCOTT MILLER  
SUPPORTING PATENTABILITY AND TRAVERSING REJECTIONS IN  
FINAL OFFICE ACTION DATED APRIL 14, 2005**

I, D. Scott Miller, being over eighteen years of age, declare, depose and state the following:

**Background**

1. My name is D. Scott Miller. I am the Senior Vice President, Sales of Radium, Inc. ("Radium").
2. I have more than 20 years experience in the two-way radio communications field. Two way radios (also referred to as walkie-talkies) are communications devices operating in a half-duplex mode or similar half-duplex type mode utilizing a transmit/receive (or push to talk, "PTT") switch. Prior to joining Radium, I was employed at Utah Communications Inc., one of Utah's leading providers and suppliers of two way radio systems, equipment and systems.
3. I was employed at Utah Communications Inc. for more than twenty years. My most recent position at Utah Communications Inc. was President, a position I held from 1993 through early 2004. Prior to becoming President, I held various positions at Utah

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Communications Inc., including Sales Manager, Installations Manager, and Installer. As President of Utah Communications Inc., I was responsible, among other things, for the marketing and maintaining of cellular communications accounts, acquiring Federal Communication Commission licenses, designing, building and maintaining two way radio systems, researching two way radio systems and devices, as well as marketing and selling and overseeing others involved with the marketing and sales of the company's products, systems and services. More specifically, I was directly involved with developing and building two way radio systems and selling and marketing two way radios and accessory devices for two way radio devices.

4. Utah Communications Inc. sells communications equipment such as two way radios, cellular telephones, accessory devices and parts, as well as complete radio and communications systems. Utah Communications Inc. also offers services for setting up, repairing and maintaining two way radio systems and cellular communications systems. A description of Utah Communications Inc. and the products and services offered by Utah Communications Inc. is found on the printouts from Utah Communications Inc.'s web site attached as Exhibit A.

5. Given my experience in the two way radio and communications industry described above, I have long been familiar with and have considerable experience with two way radio technology and applications, and I am now familiar with the subject matter claimed in the present application.

#### **Long Felt Need**

6. I first became aware of the invention disclosed and claimed in this patent application as a result of conversations with Anthony J. Sutera and John C. Lair in 2003.

7. Prior to having the conversations described in paragraph 6 above, I was aware of a long existing need in the two way radio communications industry for a wireless headset product to use with two way radios. Beginning in about the mid to late 1990s, it became apparent to individuals working in the two way radio communications industry that there was a clear trend and demand for wireless, as opposed to hard-wired, products and accessories. This trend was evidenced, for example, by the increased demand and increased wireless product offerings for cellular communication devices and other communications devices. Wireless accessories such as headsets had significant advantages over wired devices, and users were quick to request wireless solutions.

8. Prior to my learning of the invention disclosed and claimed in this patent application, many wired accessories and headsets were available for two way radios. One popular accessory for two way radios that was available since the mid-1990s was a surveillance kit that consisted of a earpiece attached by a wire lead to a two way radio along with a push to talk button/microphone piece that was also connected by a wire lead to the two way radio. Persons experienced in two way radio technology and applications realized the significant advantages that a wireless version of this surveillance kit would have over the wired version and the need for a wireless version of this product. In addition to the described surveillance kit, several companies had made and sold headsets to be used with two way radios connected by wire lead to the two way radios for more than 10 years. It was apparent to those of us familiar with the two way radio communications industry and market that a need existed for a wireless version of these wired headset products.

9. It is also true that prior to my learning of the invention disclosed and claimed in this patent application, many wireless headsets were available for communications devices such

as cellular telephones. None of these existing wireless headset products, however, operated a push to talk switch or was compatible with or could be used with two way radios.

10. Despite the need for this type of product, prior to learning of the invention disclosed and claimed in this patent application I was not aware of any wireless headset product that had ever been available on the market that operated a push to talk switch or was compatible with or could be used with two way radios.

11. Upon learning of the invention disclosed and claimed in this patent application, I realized that the products described by Mr. Sutera and Mr. Lair would satisfy the need for a wireless headset and accessory solution to use with two way radios. Specifically, the FreeMotion 200 product currently offered by Radeum, Inc. (d/b/a FreeLinc) satisfies the long felt need described in paragraphs 6-10. Finally, I also realized that the products described by Mr. Sutera and Mr. Lair would likely prove to be a huge success.

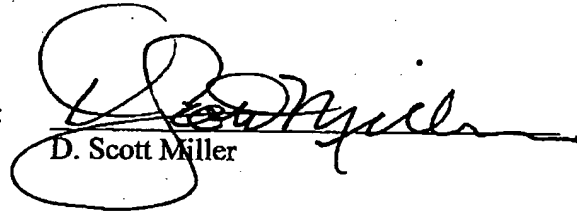
12. I am also aware that other individuals have described the existence of a long felt need for wireless headsets for use with two-way radios. See Exhibit B, copy of an email received from Douglas W. Herbert, a Drug Enforcement Agency representative in Phoenix, Arizona ("We have never seen anything on the market which offers a wireless headset for two-way radios"); Exhibit C, letter from Donald L. Grooms, a representative from a distributor, Police and Fire Communication Accessories, in Littleton, Colorado ("In the 43 years I have been involved in the telecommunications business I have never seen a more needed product than the Freelinc FreeMotion 200 product"); Exhibit D, copy of a letter from Jeff M. Winterton, a representative from the Wasatch County Sheriff's Office, in Heber City, Utah ("I know of no other communication product on the market that does what Freelinc has to offer. We have previously looked for (wanted; tried to buy) a wireless accessories for our deputies to use with

their two way radios and this is the first wireless headset for the two way radios that we have seen come on the market.”).

The undersigned declares further that all statements made herein of his own knowledge are true and all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Date: 6-9-05

By:

  
D. Scott Miller

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- Motorola Trunking Systems
- Motorola Gold Elite & MCC 5500 Consoles, Custom Designed
- Motorola Public Safety Systems
- GAI-Tronics Full Line Dealer
- Zetron Full Line Dealer
- Data, Bi-Directional Amplifier & Paging Systems
- Antennas & Site Infrastructure Equipment

#### Mobiles, Portables, Cellular & Pagers

- Motorola & Radius Radios & Equipment
- Nextel & Verizon Handsets & Accessories
- ICOM, Kenwood & Vertex Standard Radios
- Analog, Digital, Narrowband, P-25 & Encrypted Radios

#### Used Equipment

- Used/Reconditioned Radios, Base Stations & Repeaters
- Base Station Antennas & Site Equipment
- Rentals & Leased turn-ins
- Older trade-ins, as-is or repaired

#### Rentals

- Special Event, Convention or Long Term Rentals
- Rent a few radios or a full Repeater & Radio Package
- Apply your Rental Fee towards a Purchase

For Assistance or Information regarding Communications Equipment Sales:



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- Service Contracts and Time & Material Service
- 8 AM to 5 PM Standard 24 x 7 Service Available
- Certified, Licensed & Manufacturer Trained Technicians



### ● Systems Service

- Trunking, Conventional, Microwave or Data Systems
- SCADA, BDA, Paging & Alarm Systems
- In the City or on a Mountaintop, in or outside of Utah
- Dispatch Centers, Communication Sites or your Office

### ● Mobile Radio Service

- In our Shop, at your Facility or on the Road
- Drive-in, Carry-in or Ship it here
- Fleets or just one, Delivery Vehicles, Trucks & Buses
- Construction Sites Radio Equipment Service

### ● Portable Radio Shop Service

- Dedicated Technician & Shop area just for Portable Radios
- Programming & Customization for your Requirements
- Fast Turnaround for One or a Hundred

### ● Factory Service

- Factory Certified Technicians on site
- Manufacturer Warranty Service Depot Drop Point
- Daily UPS & Fed-Ex Shipping

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- Multiple Radios; Cellular; Computers; Power Systems
- Light Bars; Sirens; Grille, Deck & Trunk Lighting
- Concealed & Disguised Equipment; Special Antennas
- Portable Radio Adapters; Cameras; Cages; Weapons

### Business Radio

- Private Two-Way Radio for Cars, Trucks & Fleets
- AVL; GPS; Power Converters & Lighting Equipment
- Construction Equipment Radios; Data Systems

### Consumer Radio

- Cellular Equipment, Accessories & Hands-Free Kits
- GPS, Dual Band & Special Antennas
- Power Outlets, Chargers & Voltage Converters

### @Road Systems

- Authorized Service and Installation Facility
- Installations provided throughout North & Central Utah
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### Voice & Paging Systems

- Local & Wide-Area Trunking & Conventional Radio
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- Conventional Repeaters, Paging & Base Stations
- Analog, Digital & Encrypted Voice Systems

### Data & Digital Systems

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- Alarm, Irrigation & Power Distribution Control
- Vehicular Data & Status messaging

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- 450 MHz to 38 GHz RF Links, Optical Links
- Analog & Digital Microwave
- Across your property or across the State

### Range Extenders & Coverage Enhancers

- Bi-Directional (BDA) Systems for Buildings & Tunnels
- Private Wireless Telephone Systems
- Cellular, PCS, LMR & Public Safety Signal Boosters

## Consulting & Design Services Available

- Custom Radio System Design, for Voice and/or Data
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- New Facility Design, Antenna Structures & Comm Rooms
- Dispatch Centers & Consoles, Custom Designed in-house
- Custom Coverage Solutions, fill-in that Dead Spot!

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# Towers



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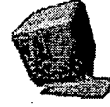
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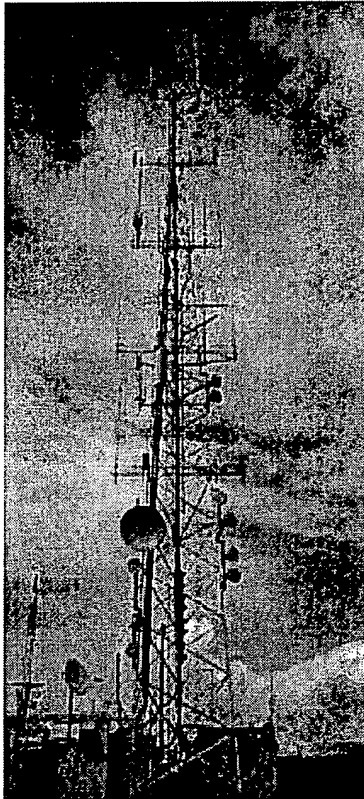
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- Weather Related Damage?
- Adding New Microwave or Data Links?
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## Parts and Accessories



### Current New Parts

- Antennas & Cables, Connectors, Adapters & Mounts
- Radio Brackets & Mounts, Fuses, Power Cables, Buttons & Knobs

### Accessories

- Batteries, Microphones, Speakers, Headsets, Chargers, Leather Cases
- Hands-free kits, Cellular Items, Belt Clips

### Infrastructure Parts

- Base Station Antenna Systems, UPS & Power Systems
- RF Combining Systems, Remote Control & Consoles, Tower Hardware

### Older and Obsolete Parts, both New & Used

- Crystals, Channel Elements, Reeds, Tubes & Vidicons
- Base Station Boards, Cards & Modules
- Individual Electronic Components for Motorola, GE, RCA and other radio brands

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## Utah Communications, Inc.>Support

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- For help with your Cellular Radio: Nextel, Verizon or T-Mobile:
  - For help with your Voice Two-Way Radio Equipment:
  - For help with your Data, AVL, GPS or Paging Equipment:
  - For help with your Government, Trunking or Centracom Equipment:
  - For help with any other Equipment or System Type:
- E-mail to: [Cellular](#)
  - E-mail to: [Two-Way](#)
  - E-mail to: [Data](#)
  - E-mail to: [Hi-Tech](#)
  - E-mail to: [Systems](#)

### **Support Options for Equipment or Services you DID NOT buy from us...**

For help with your Cellular Handset we recommend contacting your Original Sales Agent.

- If you need a New Cellular or Nextel Sales Agent to make a purchase:
  - For help with Government, Public Safety, Trunking or Centracom issues:
  - For all other help issues with equipment of any brand:
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  - E-mail to: [Hi-Tech](#)
  - E-mail to: [Support](#)

### **Other Support Options...**

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  - For help with Accounting Issues:
- E-mail to: [Towers](#)
  - E-mail to: [AlphaSites](#)
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Please be aware that these Support Links are for NON-Emergency issues.

If your needs are Critical, please call us using the phone numbers on the [About-Us](#) Page.

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Subject:

FW: Freelinc

-----Original Message-----

From: Douglas.W.Hebert@usdoj.gov [mailto:Douglas.W.Hebert@usdoj.gov]  
Sent: Wednesday, May 04, 2005 8:41 PM  
To: rbailey@freelinc.com (Receipt Notification Requested) (IPM Return Requested)  
Subject: Freelinc

Randy,

We are excited to field test your Freelinc wireless accessories as soon as they become available. We have never seen anything on the market which offers a wireless headset for two-way radios. Wireless hands-free capabilities and secure communications at the same time will be of interest to almost every public safety agency. The safety of our agents and task force officers is paramount. The applicability of the wireless Freelinc accessories can be incorporated by DEA in everyday enforcement operations and surveillance. Please keep me informed on the schedule for providing units to our Phoenix Divisional Office and DEA Headquarters.

Douglas W. Hebert  
Assistant Special Agent in Charge  
Phoenix Divisional Office  
Office(602) 664-5603  
Nextel (602) 721-0883



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Phone 303/948-9475  
Fax 303/948-2253

5/6/05

Mr. Scott Miller  
Freelinc  
2144 S. Highland Drive  
Suite 160  
Salt Lake City, UT 84106

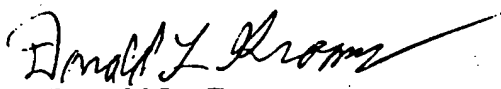
Dear Scott,

In the 43 years I have been involved in the telecommunications business I have never seen a more needed product than the Freelinc FreeMotion 200. Most of my accounts are police and fire agencies. These accounts have needed a wireless headset for two-way radios for a long time. Every police SWAT team and every fire Hazmat team has a critical need for this FreeMotion 200 wireless headset for their two-way radios. This product fills a needed void for hands free operation. This product used by "mission critical" officers could mean the difference between life and death.

Every agency we have discussed this product with has shown an immediate need for it. I have agencies calling me daily asking when they can get this Freelinc model, FreeMotion 200.

Freelinc is to be commended for their innovation of such a needed two-way radio product. I hope your development is processing well. We look forward to the day we can start furnishing this product.

Best regards,

  
Donald L. Grooms  
PFcomac

**Wasatch County Sheriff's Office**

1361 South Hwy. 40  
Heber City, Ut. 84032  
Ph: 435-654-1098  
Fax: 435-654-9962

May 16, 2005

Freelinc

2144 South Highland Drive, Suite 160  
Salt Lake City, Ut. 84106

To whom it may concern,

I am currently employed by Wasatch County Sheriff's Office as a Sgt./Det.. One of my many assignments includes overseeing the communications for the Sheriff's Office. We currently have over 50 portable radios in service for our agency.

I was recently introduced to a new technology provided by FreeLinc. The FreeMotion 200 product is a wireless headset for two way radios with a wireless link for the push to talk button on the headset. I was impressed with the technology based on the fact that I could see a great use for it in our agency. My deputies would be able to communicate with greater ease than ever before.

I was able to obtain a demo model of the product to use in the day to day operations of our office. I field tested the Freemotion 200 along with the Freemic 200. Both products far exceeded my expectations. The quality, and clarity of sound that was received by our dispatch and other deputies was greatly enhanced. I was also impressed with the ease of operability of the products that I tested. I was also impressed with the fact that no cords were involved that a deputy is constantly getting hung up on either when exiting a patrol vehicle or dealing with a suspect. The location of the push to talk button on the headset linked wirelessly to the handset is superior to having the button on the handset. The FreeMotion 200 product has many advantages over the existing hardwired accessories for two way radios.

I know of no other communication product on the market that does what Freelinc has to offer. We have previously looked for (wanted; tried to buy) a wireless accessories for our deputies to use with their two way radios and this is the first wireless headset for the two way radios that we have seen come on the market. There is a great need for the wireless headset for two way radios like the FreeMotion 200 in the market.

I would highly recommend this product to any agency.

We are currently in the process of looking into purchasing 20 complete units for our patrol deputies.

If you have any questions please feel free to contact me at my office.

Sincerely,



Lt. Jeff Winterton

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